1954/41. File No. O. Saranjams/41

K

Legal DEPARTMENT

A BRANCH

Subject:—

Opinions under the
Saranjams Estates Act

p. 55

File No. O. Saranjams/41

Bld. Sect. Slip 2-A

372-A

CONTENTS.

Legal Department File No.0. Saranjams/ 1941.

Sr. No.	Compilation No.	Subject.	Pages.
		Opinions under the Saranjam Estates Act.	
1.	O.No.108-P, dt. 10-7-41	Thana Civil Suit No.318 of 1936 — Held that the Inam in this case is a personal Inam and not a saranjam — Question as to which steps should be taken to have the execution of the decree suspended.	1-2
2.	R.I.No.6929, dt.5-8-41.	Shirke Saranjam: Kolaba. Kudali and Jamgaon, Tal. Roha & Vidhat, Tal. Mangaon.	3-4
3.	O.No.6619, dt. 28-7-41.	Question whether R.L.A's opinion No.6237, dated 4-7-40 requires to be revised in the light of the contrary opinion given by the Saranjamdars' legal adviser.	5-12.
4.	R.I.No.11353, dt.23-11-42.	Inams and Jahagirs: East Khandesh. Shendurni, Tal. Jamner Revision of village expenditure of all villages in, saranjam	13-14.
5.	O.No.8652, dt. 3-10-41.	Whether it would be competent for Govt. to order rule 7 of the Saranjam Rules Mr.Vithalrao, representing the junior Branch of the Bagai Saranjam Family to pay a monthly allowance to his cousin.	15-16.

30/12

SMD 30/4

Office of the R.L.A.

The First Class Sub-Judge, Thana, who decided the civil suit No.313 of 1936, has held that the Inam in this case is a personal Inam and not a Saranjam. Government was a part to that suit and has filed an appeal to the District Court against that decision of the First Class Sub-Judge. Until this appeal is decided it would not be desirable to take any action under rule 10 of the Saranjam Rules The District Government Pleader is being instructed to request the Court to expedite the hearing of the appeal

2. The Collector of Kolaba also requests the advice of Government as to what steps should be taken to have the execution of the decree suspended. It appears that nothing further can be done in the matter in view of the District Judge's order discharging the rule prayed for by the District Government Pleader. No appeal lies from an order by the Appellate Court refusing to stay execution (Mulla's Civil Procedure Code, 10th edition, page 1080). The Collector may, therefore, be asked to make arrangements to deposit the amount in Court.

Sd. P.N.Moos.
10/7

Remembrancer of Legal Affairs.

U.R.to P. & S.D.,No.108-P, dated the 10th July 1941.

MRP.
24/4/56.

No.821/34-A.

Political and Services Department.
Bombay Castle, 4th August 1941.

From

G.F.S.Collins, Esquire, CSI., CIE., OBE., I.C.S.,
Chief Secretary to the Government of Bombay,
Political and Services Department.

To

The Commissioner,
Southern Division.

Subject:- Shirke Saranjam: Kolaba.
Kudali and Jamgaon, taluka Roha
and Vidhat, taluka Mangaon.
Resumption of ----

Sir,

With reference to the correspondence resting with your endorsement No.W.T.N.1170, dated the 7th July 1941, on the subject mentioned above, I am directed to state that Government is advised that, until the appeal filed by Government to the District Court against the decision of the First Class Sub-Judge, Thana in civil suit No.318 of 1936 is decided, it would not be desirable for Government to take any action under rule 10 of the Saranjam Rules. The District Government Pleader is being instructed to move the Court to expedite the hearing of the appeal.

2. As regards the steps to be taken to have the execution of the decree of the Court against Government suspended, Government is advised that nothing further can be done in view of the District Judge's order discharging the rule prayed for by the District Government Pleader, with the result that the requisite amount must be deposited in Court. Your telegram to the Collector of Kolaba, a copy of which was forwarded to Government with your endorsement of the 7th July 1941, shows that you have already taken the necessary steps for the deposit of the required amount being made. This action is approved. No further action seems to be required for the present.

3. It is presumed that the question of resumption of a part of the Shirke Saranjam will be submitted for the orders of Government in due course.

4. The file received with your endorsement No.W.T.N.1170, dated the 30th March 1941, is returned herewith.

I have the honour to be,
Sir,
Your most obedient servant,

Sd. J. Chaves,
For Secretary to the Government of Bombay,
Political and Services Department.

Copy forwarded to the Legal Department for information.

MRP.
24-4-56.

Office of the R.L.A.

The two memorialists are the holders of the Shendurni Saranjam in East Khandesh. The said Saranjam was granted to their ancestors by the Peshwas. A one-fifth share of the Saranjam revenues was set apart for village expenses by custom which appears to have originated in or before 1823. In accordance with this custom the Saranjamdars used to debit to the one-fifth share the following items towards village expenses:-

(1) Remuneration payable to the district and village officers and inferior village servants.

(2) Allowances payable to the village servants useful to the community.

(3) Varshasan and Devasthan allowances.

(4) Expenditure incurred on festivities such as Varsha-Pratipada, Sankrant, Shimga, Moharrum, etc.

(5) Jahagirdar's office establishment charges.

Disputes having arisen over the manner in which the Government share of the Saranjam revenue was to be calculated, the Government issued Government Resolution, Revenue Department, No.2414, dated 14th May 1874, stating inter alia that it was no their wish to derive any profit from the one-fifth share, but they were entitled to insist that the amount should, if necessary, be expended to render the administration of the village thoroughly efficient. It was further directed that the Collector should revise the village expenditure and the Jahagirdars allowed the balance after such a sum of money as might be just and reasonable had been set aside for the expenses of the village and that the revision should be periodical after the lapse of 10 years.

No revision was however made every 10 years as directed with the result that in later years the Saranjamdars used to appropriate the large unspent balances from the one-fifth share earmarked for village expenses. Thereupon Government directed the Collector to make enquiries as to the possibility of debiting any other charges beyond those hitherto debited to the

one-fifth share. After due enquiry it was proposed to debit the charges in respect of the following additional items to the one-fifth share:-

(1) Chavdis (2) Wells (3) Tanks (4) Dharamshalas

(5) Veterinary Dispensaries (6) Ghats (7) Road Repairs.

The Saramjamdars on being consulted accepted the first item, but objected to the remaining items being included in the village expenses. Government thereupon consulted the R.L.A., who in his opinion No.6237, dated 9th July 1940, held that the additional items could be regarded as part of the village expenses. Government accepted the R.L.A's opinion and issued a Government Resolution to that effect (Government Resolution, Revenue Department, No.7780/33, dated 10th August 1940). Being aggrieved by the said orders the Saranjqmdars presented a memorial to Government for reconsideration of those orders. They have obtained opinions of Counsel - Sir Chimanlal Setalvad and Mr. H.C.Coyajee who hold that the additional items cannot properly be included in the village expenses.

2. The question for R.L.A's consideration is whether the R.L.A.'s opinion No.6237, dated 9th July 1940, requires to be revised in the light of the contrary opinion given by the Saranjamdars' legal advisers.

3. There is no dispute about the first item relating to Chavdis. As regards the remaining six items, Sir Chimanlal expresses the view that the Government Resolution of 1874 has used the expression "expenses of the village" to mean the expenses of securing the efficient administration of the village. Mr. H.C.Coyajee holds that there is no justification for inclusion of those six items in village expenses either in statute law, in contract or in usage. He further opines that since the Saranjamdar is interested only in the efficient revenue administration of the Estate he is bound to meet all legitimate expenses for the efficient revenue administration and not for the six items which do not fall within the scope of efficient revenue administration.

4. The interpretation put upon the expression "expenses of the village" by Sir Chimanlal Setalvad and Mr.Coyajee would appear to be too narrow. Both Counsel rely on the Government Resolution of 1874. Though the expression "expenses of the village" is used in the Government Resolution, the expression 'village expenses" is used throughout in the letter of the Revenue Commissioner, N.D., printed in the preamble of that Government Resolution. In my opinion, there is little justification for drawing a distinction between the two expressions. Both convey the same meaning though Sir Chimanlal seems to think that the expression "village expenses" is wider than the expression "expenses of the village" and may include different kinds of expenses in the village. Under the Government Resolution of 1874 the village expenditure had to be revised every 10 years. The expression "expenses of the village" as used in the Government Resolution was doubtless meant to include a variety of expenses as might be deemed just and reasonable. So the only real point for consideration is whether the seven additional items sought to be debited by Government to the one-fifth share can legitimately come within the scope of the term "village expenses". I am inclined to hold that they do. But the point is not quite free from doubt. It is clear from the past history of this case that the Saranjamdars themselves had from very early times put a liberal interpretation on the term "village expenses" and included within its scope not only the amounts spend on the village establishment but also the expenditure on Varshasan and Devasthan allowances and on festivities connected with Varsha-Pratipada, Sankrant, Shimga, Moharrum, etc. which had really no connection with the efficient collection of land revenue. The expenditure on these items was evidently incurred for the purpose of providing amenities to the villagers. Phadnis in his commentary on the Watan Act, page iv, has also included in the term "village expenses" amounts spent for providing village amenities It would, therefore, appear that just as in the past amounts incurred for village amenities were included in village expenses by the

Saranjamdars it would be open to Government during its periodical revision of village expenditure to insist that expenditure incurred on modern amenities and improvements such as wells, tanks, chavdis, dispensaries, etc. for the welfare of the villagers should also be included in the"village expenses". In the circumstances, I do not think that R.L.A's opinion No. 6237, dated 9th July 1940, requires to be revised.

5. As however the point is not quite free from doubt, Government may consider the advisability of effecting a compromise with the Saranjamdars instead of driving them to a civil court for an authoritative interpretation of the expression "village expenses".

6. It appears from the petitions of both the Saranjamdars of Shendurni (pages 71 and 117 ante) that a copy of the R.L.A's opinion No.6237, dated 9th July 1940, was supplied to them by the Collector. The opinios of the R.L.A. are confidential and meant only for the guidance of Government departments and Government officers. The Collector should not have supplied a copy of the said opinion to the Saranjamdars and he should be informed accordingly.

Sd. P.N.Moos,
25/7
Remembrancer of Legal Affairs.

U.R.to R.D.,No.6619, dated the 28th July 1941.

MRP.
25/7/56.

Office of the R.L.A.

The question for consideration of the R.L.A. is whether it would be competent for Government to order under rule 7 of the Saranjam Rules Mr. Vithalrao, representing the junior branch of the Bagni Saranjam family to pay a monthly allowance of Rs.50 to his cousin Mr.Trimbak Ganpat.

2. Rule 7 of the Saranjam Rules provides for power of Government to direct a saranjamdar to make a suitable provision for the maintenance of the widow or widows of the preceding saranjamdar, his own brothers or any other member of his family, who having a valid claim arising from infancy, mental or physical infirmity rendering such member incapable of earning a livelihood, may be deemed deserving of support at his hands, and to fix the amount which he shall pay in each instance. Mr. Trimbak Ganpat is not suffering from any mental or physical infirmity rendering him incapable of earning a livelihood. Consequently rule 7 of the Saranjam Rules has no application to the present case (cf. R.L.A's opinions Nos. 404 dated 11th January 1940 and 732 dated 19th January 1940).

3. It seems that the same object can be achieved by resorting to rule 5 of the Saranjam Rules. Under that rule it is competent for Government to impose special charges on the saranjam estate; and such charges may be imposed by Government even after the saranjam is made over to the next holder as a fresh grant from Government (see R.L.A's opinion No.1251 dated 23rd February 1935). A charge can be imposed in order to secure maintenance (see R.L.A's opinion No.4034 dated 12 November 1902). At the time of resumption and regrant of the Bagni Saranjam in 1923 the charge for the payment of an annual allowance of Rs.1262, as per decision of the Government of India in 1908, was reimposed on the saranjam for the benefit of the junior branch represented by Vithalrao Vishnu. Since Mr. Trimbak Ganpat also belong to the junior branch of the saranjam family, any charge to be created for his maintenance will have to be imposed by reducing

to that extent the charge created in favour of Vithalrao Vishvnrao. Government has power to increase or decrease the allowance constituting a charge on the saranjam estate (cf. R.L.A's opinion No.3348, dated 19th April 1940). Consequently Government may by amending suitably the Government Resolution, (Political Department) No.1356, dated 21st December 1923, order payment of Rs.50 per month to Mr.Trimbak Ganpat out of the allowance of Rs.1242 payable to Mr. Vithalrao Vishvnrao.

Sd. P.N.Moos
1/10
Remembrancer of Legal Affairs.

U.R.to P.& G.Deptt.No.8662, dated the 3rd October 1941.

MRP.
25/4/56.